

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 176 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.M.SONI and  
MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF INCOME-TAX

Versus

RAMDAS N DESAI

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Appearance:

MR MIHIR THAKORE for Petitioner  
MR JP SHAH for Respondent No. 1

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CORAM : MR.JUSTICE S.M.SONI and  
MR.JUSTICE Y.B.BHATT

Date of decision: 05/10/96

ORAL JUDGEMENT

The following question is referred to us in  
compliance with the directions issued by this Court:

"Whether on the facts and in the  
circumstances of the case, the Income-tax

Appellate Tribunal was right in law in deleting the penalty of Rs.30,000/- imposed by the Inspecting Assistant Commissioner u/s.271(1)(c) of the I.T.Act,1961?"

The Assessee preferred an appeal from the order of the I.A.C. dated 8-2-1974 imposing the penalty of Rs.30,000/- under section 271(1)(c) of the Act. The penalty proceedings were initiated because of the re-assessment proceedings under section 147 for the Assessment Year 1967-68. The petitioner had challenged the order of re-assessment for the Assessment Year 1967-68 by Reference No.ITR 134/83. This Court (Coram: N.J.Pandya and S.D. Pandit, JJ. passed an order holding that the action for reopening the assessment was not justified. Penalty came to be imposed by the Inspecting Assistant Commissioner under section 271(1)(c) of the Income Tax Act,1961 as a result of re-assessment proceeding. When the re-assessment proceedings are held not justified, the penalty imposed thereon also must fail as a consequence thereof. In view of this, the question referred to us is required to be answered in the affirmative i.e. against the revenue and in favour of the assessee.

Reference stands disposed of accordingly. No costs.

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